

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Essroc Italcementi Group)	NOTICE OF VIOLATION AND
Logansport, Indiana)	FINDING OF VIOLATION
)	
Proceedings Pursuant to)	EPA-5-03-17-IN
Section 113(a)(1) and (a)(3))	
of the Clean Air Act,)	
42 U.S.C. § 7413(a)(1) and)	
(a)(3))	

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice and Finding of Violation (NOV) under Section 113(a)(1) and (3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1) and (3). U.S. EPA finds that Essroc Italcementi Group (Essroc), located in Logansport, Indiana, is in violation of Subtitle I, Part C of the Act, its implementing regulations at 40 C.F.R. § 52.21, the Indiana State Implementation Plan (SIP), and sections 502 and 503 of the Act. 42 U.S.C. § 7661a-b, as follows:

Statutory and Regulatory Background

Prevention of Significant Deterioration

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration of air quality standards pursuant to Subtitle I, Part C of the Act. These regulations were revised on August 1, 1980 (45 Fed. Reg. 52676), and are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403). (PSD regulations)
2. Subchapter I, Part C of the Act, and the PSD regulations implementing Part C at 40 C.F.R. § 52.21(i), prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is "major" in that it will result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has either achieved the National Ambient Air Quality Standards ("NAAQS") for that pollutant, or has been designated as unclassifiable for that pollutant. Part C and its implementing regulations further require that a source subject to these PSD regulations shall install

Best Available Control Technology ("BACT") to control the emissions of each regulated pollutant. 40 C.F.R. § 52.21(j).

3. On April 7, 1980, U.S. EPA delegated to the Indiana Department of Environmental Management (IDEM) authority to review and process PSD permit applications and to implement the PSD program. 46 Fed. Reg. 9584.
4. On August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP. 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, as amended at 46 Fed. Reg. 9584).
5. 40 C.F.R. § 52.21(b)(1)(i)(a) defines a "major stationary source" as any source, including Portland cement plants, which emits or has the potential to emit, 100 tons per year or more of any pollutant subject to the regulation under the Act.
6. 40 C.F.R. § 52.21(b)(2)(i) defines a "major modification" as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emission increase of any pollutant subject to regulation under the Act.
7. 40 C.F.R. § 52.21(b)(23)(i) defines "significant" net emissions increase for sulfur dioxide (SO₂) as a rate of emissions which would equal or exceed 40 tons per year (tpy) of sulfur dioxide (SO₂) and 40 tpy of nitrogen oxides (NO_x).
8. An applicant for a permit to modify a stationary source is required to provide all relevant information to allow the permitting authority to perform an analysis or make the determination required in order to issue the appropriate permit. 40 C.F.R. § 52.21(n).
9. 40 C.F.R. § 52.21(i)(1) prohibits the actual construction or major modification of a major stationary source without a permit which states that the major stationary source or modification would meet the requirements of 40 C.F.R. § 52.21 (j) through (r).
10. 40 C.F.R. § 52.21(r) states that any owner or operator of a source subject to PSD regulations who operates a source or modification without applying for and receiving approval under the PSD regulations is subject to enforcement action.

Requirements for Title V Operating Permits¹

11. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.
12. Section 503(d) of the CAA, 42 U.S.C. § 7661b(d), sets forth the requirement to timely submit an application for a permit, including required information.
13. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.
14. 40 C.F.R. § 70.7(b) provides that no source subject to Part 70 requirements may operate without a permit as specified in the CAA.
15. U.S. EPA promulgated final interim approval of the Indiana Title V program on November 14, 1995 (60 Fed. Reg. 57191), and the program became effective on that date.

Factual Findings

16. Essroc owns and operates a portland cement plant located at 3084 West C.R. 225 South, Logansport, Indiana. As part of the portland cement plant, Essroc Italcementi Group owns and operates two wet cement kilns. The factual background and findings in this NOV relate to Essroc's portland cement plant.
17. Essroc is located in Cass County, Indiana, an area designated as attainment for the National Ambient Air Quality Standards (NAAQS) for SO₂ and NO_x. 40 C.F.R. § 81.314.
18. The wet cement kilns at Essroc portland cement plant were constructed in 1963. The Essroc cement kilns and portland cement plant emit or have the potential to emit 100 tons per

¹ Although the Clean Air Act does not require U.S. EPA to issue a FOV for purposes of alleging violations of Title V requirements, U.S. EPA wants to ensure that the source is comprehensively notified of all significant Clean Air Act violations known to U.S. EPA at this time.

year or more of a pollutant regulated under the Act, and are "major stationary sources" as defined at 40 C.F.R. § 52.21(b)(1)(I)(a).

19. In January 1990, Essroc commenced the usage of petroleum coke in its wet cement kilns as a fuel. This usage of petroleum coke continues to date. This constitutes a physical change in or change in the method of operation of the wet cement kilns at Essroc's portland cement plant.
20. The 1990 physical change or change in the method of operation to the usage of petroleum coke as a fuel in the Essroc's cement kiln resulted in a significant net SO₂ emissions increase of 40 tons per year or more.
21. On March 8, 2000, IDEM issued a permit to Essroc to construct and operate two semi-direct firing systems, in conjunction with its two wet cement kilns. As a result of this modification, Essroc was able to use more petroleum coke, which resulted in a significant net SO₂ emission increase of 40 tpy or more, and collateral increases of NO_x emission of 40 tpy or more, as well.
22. The modification of Essroc's wet cement kilns was a "major modification" to the existing portland cement plant as defined at 40 C.F.R. § 52.21(b)(2).
23. Essroc Italcementi Group's portland cement plant is subject to Title V of the Act (section 502 and 503), because it is a major source (as defined in Section 501(3) of the Act) with the potential to emit more than 100 tons per year of a pollutant regulated under the Act.

Violations

24. In 1990, Essroc Italcementi commenced a major modification of its wet cement kilns without obtaining a PSD permit and complying with the requirements in 40 C.F.R. § 52.21(j) through (r) in accordance with the Act, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Indiana SIP.
25. Essroc Italcementi failed to employ BACT for SO₂ emissions at the wet cement kilns in 1990, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Indiana SIP.

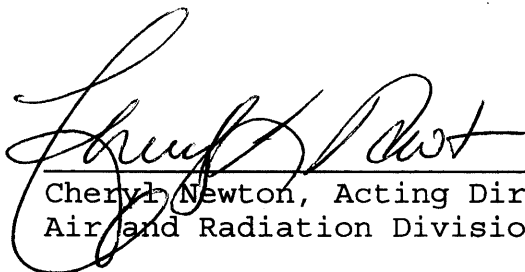
26. In 2000, Essroc commenced a major modification of its wet cement kilns without obtaining a PSD permit and complying with the requirements in 40 C.F.R. § 52.21(j) through (r) in accordance with the Act, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Indiana SIP.
27. Essroc failed to employ BACT for SO₂ emissions at the wet cement kilns in 2000, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Indiana SIP.
28. Essroc failed to employ BACT for NO_x emissions at the wet cement kilns in 2000, in violation of Subtitle I, Part C, of the Act, and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Indiana SIP.
29. Essroc failed to provide the permitting authorities with all relevant information necessary for the permitting authorities to perform an analysis of whether Essroc's proposed changes were a "major modification", or make the determination required in order to issue the appropriate permit, resulting in an erroneous determination in violation of the CAA, and its implementing regulations at 40 C.F.R. § 52.21(n), as incorporated into the Indiana SIP.
30. Essroc has operated and continues to operate its facility without obtaining a PSD permit for the 1990 major modification in violation of Subtitle I, Part C of the Act and its implementing regulations at 40 C.F.R. § 52.21, as incorporated into the Indiana SIP.
31. Essroc has operated and continues to operate its facility without an operating permit in violation of the Indiana SIP. 35 I.A.C. § 201.143.
32. The violations, in paragraphs 24 through 31, commenced in 1990, on the date Essroc modified its wet cement kilns and continue until the appropriate permits are obtained and the applicable requirements are complied with, including the installment and operation of pollution control equipment.
33. Essroc failed to submit a timely and complete Title V permit application with information pertaining to the 1990 major modification, violating Section 503 of the CAA and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating Section 502 of the CAA.

34. Essroc failed to submit a timely and complete Title V permit application with information pertaining to the 2000 major modification, violating Section 503 of the CAA and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating Section 502 of the CAA.

FINDING OF VIOLATION

The Administrator of the U.S. EPA, by authority duly delegated to the undersigned, notifies the State of Indiana that Essroc is in violation of Subtitle I, Part C of the Act, its implementing regulations at 40 C.F.R. § 52.21, Sections 502 and 503 of the Act, 42 U.S.C. § 7661a-b, the Indiana SIP, Section 112 of the Act, 42 U.S.C. § 7412, as set forth in this Notice of Violation and Finding of Violation.

6/19/03
Date


Cheryl Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation
to Illinois Cement Company, to:

Brian K. Graf
Senior Environmental Manager
Essroc Italcementi Group
3084 W. CR 225 South
Logansport, Indiana 46947

I also certify that I sent a copy of the Notice and Finding
of Violation by First Class Mail to:

David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 20th day of June 2003.

Betty Williams
Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 0178 2847